

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

DEVIN G. NUNES

Plaintiff,

v.

FUSION GPS A/K/A BEAN LLC and GLENN
SIMPSON

Defendants.

Civil Case No. 1:19-cv-1148

MOTION TO CONTINUE PRE-TRIAL CONFERENCE AND STAY DISCOVERY

Defendants Fusion GPS a/k/a Bean LLC and Glenn Simpson, by and through counsel, hereby move to continue the Fed. R. Civ. P. 16(b) pre-trial conference scheduled for July 22, 2020 and to stay all discovery until after the Court rules on Defendants' pending Motion to Dismiss the Second Amended Complaint (Dkt. No. 36). In support of this motion, Defendants state as follows:

1. By Order dated February 21, 2020 (Dkt. No. 34), this Court dismissed Plaintiff's Amended Complaint, gave Plaintiff leave to file a second amended complaint, and *sua sponte* instructed Plaintiff that he comply with Federal Rule of Civil Procedure 11 in so doing.
2. Plaintiff filed his Second Amended Complaint on April 6, 2020 (Dkt. No. 35).
3. On April 27, 2020, Defendants filed a Motion to Dismiss the Second Amended Complaint and noticed the hearing for June 19, 2020 (Dkt. Nos. 36 & 39).
4. Plaintiff filed an Opposition to the Motion to Dismiss on May 11, 2020 (Dkt. No. 40).
5. Defendants filed a Reply in Support of the Motion to Dismiss on May 18, 2020 (Dkt. No. 41).

6. On June 15, 2020, the case was reassigned to the Honorable Rossie D. Alston, Jr.
7. On June 15, 2020, the Court canceled the hearing on the Motion to Dismiss to decide the Motion on the papers.
8. On June 24, 2020, the Court issued a Scheduling Order (Dkt. No. 42), setting, *inter alia*, the Initial Pretrial Conference for July 22, 2020 at 11:00 AM, the deadline for proposed discovery schedules as one week prior to the pre-trial conference, requiring an Answer to be filed within 20 days of the Scheduling Order, and stating that “[d]iscovery may begin upon receipt of this Order.”
9. Defendants’ Motion to Dismiss is still pending. A stay of discovery and a short continuance of the Rule 16(b) pretrial conference until after the Court has decided the Motion to Dismiss will conserve judicial resources and client resources because the Court’s decision on the Motion to Dismiss will help define the issues in the case or, if the Motion is granted, will obviate the need for discovery and a pretrial conference. Defendants have already expended significant resources briefing two motions to dismiss in this matter, and should not be required to expend additional resources on discovery, with a motion to dismiss pending.
10. On June 25, 2020, undersigned counsel communicated with Plaintiff’s counsel about this motion. Plaintiff’s counsel did not consent.
11. The proposed stay and continuance will not prejudice either party.

Wherefore, Defendants respectfully request that this Honorable Court stay discovery and continue the Initial Pretrial Conference set for July 22, 2020 at 11:00 AM until a date after the Motion to Dismiss is decided if, at that point, discovery and a pretrial conference are necessary.

Dated: June 26, 2020

Respectfully submitted,

/s/ Kerry Brainard Verdi
Kerry Brainard Verdi
Verdi & Ogletree PLLC
1325 G St NW, Suite 500
Washington, DC 20005
Tel: (202) 449-7703
Fax: (202) 449-7701
kverdi@verdiogletree.com

Joshua A. Levy (*admitted pro hac vice*)
Rachel Clattenburg (*admitted pro hac vice*)
Levy Firestone Muse LLP
1401 K. St. NW, Ste. 600
Washington, D.C. 20005
jal@levyfirestone.com
Tel: 202-845-3215
Fax: 202-595-8253

Counsel for Defendants
Fusion GPS and Glenn Simpson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served through the Court's electronic filing system on June 26, 2020 to counsel of record.

/s/ Kerry Brainard Verdi
Kerry Brainard Verdi